No. 78-1193

In the
Supreme Court of the United States
OCTOBER TERM, 1978

DONALD S. CARNOW,

Petitioner,

vs.

ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION OF THE SUPREME COURT OF ILLINOIS,

Respondent.

REPLY ON CERTIORARI

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May it please the Court:

The respondent Commission has made two arguments against this petitioner, at Points II and III of its Brief, neither of which should be permitted to pass without comment. (We disregard Point I of Respondents Brief, which is addressed to a different petitioner.)

II.

Respondent commences with an intemperate maladiction which is difficult to square with its role as arbiter of the ethical standards of the legal profession. Casting aside hyperbole, we are left with respondent's statement that the court below rejected this petitioner's contention that he was a victim of extortion.

To the contrary, the court below conceded, in line with the massive and uncontradicted evidence, that this petitioner was a victim. The decision below rests entirely upon the uncontradicted fact that the extortion money was paid—an accusation which could be made against almost any victim of a financial crime.

Among the findings below were the following: (App. 3a-4a)

> 1. There is no question but that the Respondents[1] were retained by Pecord for a lawful legal purpose, i.e. to obtain a zoning variance. Further, there is no question that Pecord's intentions were honorable and his desire to convert the Beverly building to a nursing home was a laudable thing.
>
> 2. Had the Respondents[1] failed to obtain the zoning variance their client, Pecord, would have lost considerable sums of money. It was, therefore, of great importance that the Respondents succeed.
>
> 3. Based on the record before us, we find that Pecord was entitled to the zoning variance he requested but that the variance was denied him because of political implications brought forward by the Ward Committeeman.
>
> 4. Stanley Zima, then the Secretary to the Committee of Building and Zoning was in a position to see to it that Pecord's request for a variance was either granted or denied. Zima demanded $20,000.00 for his "assistance" which meant that unless the extortion money was paid, no variance would be granted.
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> • • •
>
> 6. Respondents[1] maintain and it is probably believable that they and their families were threatened

[1] The term "Respondent" as used in the findings, denotes the Petitioner in this Court.

by Zima with economic and bodily harm and that their client was threatened.

• • •

10. Respondents[1] cooperated with the federal investigation and with the United States Attorney in obtaining an indictment of Stanley Zima and as witnesses during the trial which resulted in the conviction of Zima for extortion.

There is no basis for the respondent's shrill suggestion that this petitioner is simply offering to this Court an "unproved factual defense" (Resp. Br. 6). There would be no basis for that assertion, even if it had been couched in professionally acceptable language.

III.

Finally, the respondent states that the Court should not intercede in this matter simply because, in the proceedings below, this petitioner was "afforded notice of the charge and an opportunity to defend". The same is true, however, of the disciplined lawyers whose cases were considered in *Spevack* v. *Klein*, 385 U.S. 411 (1967) and *In re Ruffalo*, 390 U.S. 544 (1968). Those cases, acknowledged as authoritative within the respondent's brief, amply refute the suggestion that notice and an opportunity to be heard are the only federal rights involved in a disbarment proceeding.

Respectfully submitted,

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